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APR 11 2005

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2600**

In re Application of:
Huang-Tsun Chen
Application No. 09/990,353
Filed: November 23, 2001
For: **MOTIONLESS-IMAGE DISPLAY WITH
AUTO-ADJUSTING LIGHT SYSTEM AND
THE METHOD FOR FORMING THE SAME**

**DECISION
ON PETITION**

This is a response to the Petition to Withdraw Notice of Abandonment, filed March 7, 2005. The petition is being treated under 37 CFR 1.8(b) to withdraw the holding of abandonment.

This application became abandoned for failure to timely file a response to the final Office action mailed April 5, 2004, which set a shortened statutory period of three (3) months to reply. A Notice of Abandonment has not been mailed.

A review of the file record reveals that a final Office action was mailed on April 5, 2004, setting a three month shortened statutory period for reply. On July 1, 2004, Applicant filed a response to the final Office action. On August 4, 2004, the Office mailed an Advisory action which indicated that claims 1-11 remained rejected and claims 12-17 were allowed. On October 5, 2004, the file record reveals that a response was received from Applicant which cancelled claims 1-11, leaving only allowed claims 12-17. However, the file record did not reveal a petition for a three month extension of time. Therefore, the application was technically abandoned on July 6, 2004.

Petitioner alleges to have timely filed a response to the Office action on October 5, 2004 along with a petition for extension of time for three months. To support this position, Petitioner has included with the instant petition a copy of the petition for three months extension of time bearing a proper certificate of transmission having a date of October 5, 2004.

37 C.F.R. § 1.8(b) states that in the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence,
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate, and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

Petitioner has met the requirements above. Accordingly, the holding of abandonment is withdrawn.

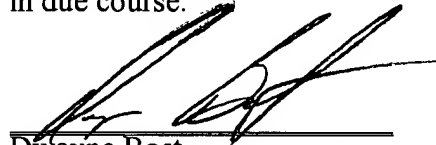
The petition is **Granted**.

37 CFR §1.116 Amendments after final action or appeal, states:

- (a) An amendment after final action or appeal must comply with § 1.114 or this section.
- (b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, amendments may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action. Amendments presenting rejected claims in better form for consideration on appeal may be admitted. The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under §1.135, or the reexamination from termination. No amendment can be made in an inter partes reexamination proceeding after the right of appeal notice under § 1.953 except as provided for in paragraph (d) of this section.
- (c) If amendments touching the merits of the application or patent under reexamination are presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon a showing of good and sufficient reasons why they are necessary and were not earlier presented.
- (d) No amendment can be made as a matter of right in appealed cases. After decision on appeal, amendments can only be made as provided in §§ 1.198 and 1.981, or to carry into effect a recommendation under § 1.196 or § 1.977. [emphasis added]

Applicant's amendment of October 5, 2004, cancelled the non-allowed claims leaving only the allowed claims. This amendment complies with 37 CFR §1.116.

The application will be forwarded to the Technology Center's technical support staff for entry of the petition for three months extension and entry of the response filed October 5, 2004 as an After Final Amendment. From there, the file will be forwarded to the examiner for consideration in due course.



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Communications